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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/791,319	03/02/2004	Robert D. Kross	K15-018US	1807
7590 12/01/2004			EXAMINER	
Henry D. Coleman 714 Colorado Avenue Bridgeport, CT 06605-1601			KUHN, SARAH LOUISE	
			ART UNIT	PAPER NUMBER
			1761	

DATE MAILED: 12/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/791,319

Applicant(s)

KROSS, ROBERT D.

Examiner

Sarah L Kuhns

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected;
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1, 2, 5, 8, and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Mitchell, U.S. Patent 6,210,730.

In regard to claim 1, Mitchell discloses a method comprising applying an aqueous solution, comprising a reducing agent, to meat disinfected with oxidizing germicide (column 4, line 4), wherein application of the aqueous solution to the meat reduces meat discoloration caused by the oxidizing germicide (column 2, line 56).

In regard to claim 2, Mitchell discloses the reducing agent being ascorbic acid, erythorbic acid, or mixtures of salts thereof (column 4, line 10).

In regard to claim 5, Mitchell discloses the oxidizing germicide being ozone and chlorine dioxide (column 4, line 35).

In regard to claims 8 and 14, Mitchell discloses the aqueous solution being sprayed on the meat (column 4, line 52, aerosol).

2. Claims 1, 2, 5, 7, 9, and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Fujita et al., JP 61104773 A.

In regard to claim 1, Fujita discloses a method comprising applying an aqueous solution, comprising a reducing agent, to meat disinfected with oxidizing germicide, wherein application of the aqueous solution to the meat reduces meat discoloration caused by the oxidizing germicide (abstract).

In regard to claim 2, Fujita discloses the reducing agent being ascorbic acid, erythorbic acid, or bisulfate salt (abstract).

In regard to claim 5, Fujita discloses the oxidizing germicide being a chlorine sterilizer (abstract).

In regard to claim 7, Fujita discloses a water rinse being applied to the disinfected meat before application of the aqueous solution (abstract).

In regard to claim 9, Fujita discloses the disinfected meat being immersed in the aqueous solution (abstract).

In regard to claim 14, Fujita discloses the meat being dipped in the aqueous solution (abstract).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
 2. Ascertaining the differences between the prior art and the claims at issue.
 3. Resolving the level of ordinary skill in the pertinent art.
 4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
3. Claims 3, 4, 6, 10-13, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fujita, as applied to claim 1 above, in view of Kross, U.S. Patent 5,389,390.

In regard to claims 3 and 4, it is unclear from the abstract of Fujita as to what is the concentration of the reducing agent in the aqueous solution. However, it would be obvious to alter this concentration in order to achieve the desired color, odor, and texture of the meat.

In regard to claims 6 and 12, Fujita does not expressly state the time lapse between the treatment with an oxidizing germicide and the treatment with the aqueous solution comprising a reducing agent. However, Fujita teaches that once the meat has been treated with an oxidizing agent, it is washed, and then dipped in an aqueous solution containing a reducing agent (abstract). It is expected that the washing of the meat, as taught by Fujita, takes between 5 seconds and 1 hour and therefore it would be obvious to have period of time within this range in between treatment of the meat with an oxidizing germicide and treatment of the meat with a reducing agent.

In regard to claims 10 and 11, Fujita fails to disclose the aqueous solution comprising a wetting agent or thickener. Kross discloses a method comprising disinfecting

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meat with an oxidizing germicide with minimal discoloration (abstract). Kross further discloses a treatment solution comprising a wetting agent (column 3, line 57) and a thickener (column 3, line 63). It would therefore be obvious to use a wetting agent and/or a thickener in the process of treating meat taught by Mitchell in order to facilitate contact of the solution with the meat surfaces.

In regard to claim 13, Fujita discloses a water rinse being applied to the disinfected meat before application of the aqueous solution (abstract).

In regard to claim 15, Fujita discloses the meat being dipped in the aqueous solution (abstract).

Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sarah L. Kuhns whose telephone number is 571-272-1088. The examiner can normally be reached on Monday - Friday from 8:00 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SLK



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